

Legal Ease

Who better to argue the case for EDM in the legal sector than a solicitor? Tania Correia outlines how document management can bring order to law, and describes how the paperless office may yet lead to paperless courts.

The use of Electronic Document Management Systems (EDMS) has revolutionised the way in which lawyers handle litigation cases, they have recognised that computerising documentation enables them to work more effectively and that the biggest single cost in any large-scale and/or document intensive case is usually that of document management. In litigation context, EDMS is used to computerise the documents and is known as Litigation Support.

Why use Litigation Support?

- Technology can be used not only to automate existing working practices but to provide new ways of working.
- It allows the users to organise their paperwork quickly because there are automatic facilities for searching, storing, manipulating and retrieving information.
- Portability and remote access.
- Easier case management.
- Costs can be more easily controlled and in some cases recovered from other parties.
- More time can be spent analysing documents rather than having to sort them.

Litigation Support System

A litigation support system provides an electronic method for managing and, to a greater or lesser extent, replacing the paper associated with litigation. The case documentation is turned into a database, which can be searched and manipulated by the user. There are three basic components to the system:

The Document Image

This is an electronic copy of the document and is no more and no less than a picture of the document, which is saved as a TIFF or JPEG and can be viewed or printed at any time.

The Document Record

The document record is like a library index card. It consists of a summary of key information about the document. This record card consists of a number of indexes or fields. These fields are usually divided into two types: objective fields and subjective fields. Objective fields contain basic factual information about the document (for example, date of document, type of document, author, author's company, recipient, recipient's company). Subjective fields contain more "intelligent" information about the document (e.g. issues to which the document relates, lawyer's comments, categorisation of the document as relevant/irrelevant, privileged/non-privileged, designation of the document e.g. whether it is to go into the trial bundles and matters of this nature)

Full Text

Full Text is created when a document is scanned using Optical Character Recognition (OCR). Full text searching lends itself to the fluid nature of litigation and to the idiosyncratic trail of the lawyers' thoughts. For example, if part way through a case a new issue is introduced, full text searching enables the lawyer to search the system for key phrases associated with that issue. In addition, having read the evidence, one often recalls a phrase or expression seen in a document, full text searching enables quick retrieval of the relevant document or documents.

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Benefits

In the long term, the major advantage is one of time and cost savings in litigation management, as time consuming tasks such as producing List of Documents (whether for hearings, witnesses or experts) can be done automatically by the system. Below are some further examples of the capabilities of a Litigation Support System:

- Large numbers of documents can be stored, retained and searched in a convenient manner. Up to 18000 documents (approximately 46 lever arch files) can be stored on one CD.
- There is a facility for witnesses and lawyers to add comments to the database on specific documents. This is particularly useful in preparation of witness statements and experts' reports.
- The system is portable and accordingly can be used by the lawyers and Counsel as well as by third parties. It can also be taken to convenient locations for witnesses and experts without transporting large bundles of documents.
- The system can also be taken into the Court Room in keeping with the recommendations made by Lord Woolf. Judges are becoming increasingly used to the use of technology in the Court Room (and in some cases are demanding its use). What usually happens is that the trial bundle is agreed and then put onto a CD Rom. It can then be loaded into a Court Room presentation system which can be shared by all the parties. This means that everyone, including the Judge, is able to locate documents very quickly

Security and Portability

Another benefit is the system's security. Documents can be loaded onto laptop computers or CD Roms eliminating the need for large quantities of hard copy documents to be taken to interviews with witnesses. So, when, for example a witness statement is being taken in the Far East, no documents need to be sent in advance. Rather, all the relevant documents will be contained on a laptop and/or CD Roms which will travel with the person who will be taking the statements.

Some Drawbacks

As with most technology, it can only work to your advantage with careful preparation, planning and implementation. However, if the following is borne in mind problems are usually minimal:

- Careful preparation is essential
- Rubbish in, Rubbish out
- Involve Litigation Support experts as early as possible

Agree a timetable and stick to it, as unrealistic deadlines usually lead to mistakes. In addition, there is a front loading of costs. This is because all the case documentation has to be put onto the system more or less at once. This is not a problem for cases that are document intensive and unlikely to settle early. However this issue has to be considered at the outset especially where there is a possibility that the claim will settle at an early stage. (The impact of the Woolf reforms will be greater front loading of costs in any event. This drawback is therefore likely to become less significant.) Despite the comments made above, EDMS had made an enormous impact on the document management of litigation cases and has enabled lawyers to deliver a more efficient and cost effective service. Its use in the litigation context is evolving fast and we are likely to be in a position to conduct paperless litigation sooner rather than later.

Tania Correia is a qualified solicitor who now works as an independent consultant. She gained extensive experience in the field of DIP systems at her former employer, city solicitors Herbert Smith.